

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

VICTOR ELGOHARY, derivatively on behalf of §  
TEXAS HALO FUND I, LLC; TEXAS HALO §  
J4T AFFILIATE FUND, LLC; and TEXAS HALO §  
J4T MANAGEMENT, LLC §

Plaintiff, §

vs. §

DAVID STEAKLEY; ANDREW CLARK; §  
WILLIAM WHEELLOCK; ROBERT TUCCI; §  
SIOTEX CORPORATION; JAMIE RHODES; §  
GEORGE STEINKE; and GARY BEALL §

Defendants. §

CIVIL ACTION NO. \_\_\_\_\_

**DEFENDANTS' NOTICE OF REMOVAL**

Defendants David Steakley, Andrew Clark, William Wheelock, and Robert Tucci remove this action to the United States District Court for the Southern District of Texas, Houston Division, which is the judicial district and division in which this state court proceeding is pending. This removal is pursuant to 28 U.S.C. §§ 1441 and 1446.

**A. Statement of the Case**

1. This purported derivative action case arises, in part, under Rule 10b-5 of the Securities Exchange Act of 1934, 15 U.S.C. § 78a *et seq.* Plaintiff Victor Elgohary, purporting to act derivatively on behalf of Texas Halo Fund I, LLC, Texas Halo J4T Affiliate Fund, LLC, and Texas Halo J4T Management, LLC, has named Defendants David Steakley, Andrew Clark, William Wheelock, Robert Tucci, SiOTeX Corporation, Jamie Rhodes, George Steinke and Gary Beall in this lawsuit filed in the 129<sup>th</sup> Judicial District Court of Harris County, Texas styled *Victor Elgohary, derivatively on behalf of Texas Halo Fund I, LLC; Texas Halo J4T Affiliate Fund, LLC; and Texas*

*Halo J4T Management, LLC vs. David Steakley; Andrew Clark; William Wheelock; Robert Tucci; SioTeX Corporation; Jamie Rhodes; George Steinke; and Gary Beall*; Cause No. 2017-22464.

2. Defendant David Steakley was served with Plaintiff's Original Petition—his initial pleading—on May 2, 2017. Defendants file this notice of removal within the 30-day time period provided by 28 U.S.C. §1446(b).

3. The remaining defendants have consented to the removal. *See Exhibit 7*, Defendants' SioTex Corporation, Jamie Rhodes, George Steinke and Gary Beall's Notice of Consent to Removal.

### **B. Basis for Removal**

4. Removal is proper because Plaintiff's suit involves a federal question, and the district courts have original jurisdiction of all civil actions arising under the laws of the United States. 28 U.S.C. § 1331, 1441(a). Specifically, Plaintiff seeks to recover damages in connection with alleged violations of regulation 17 C.F.R. 240.10b-5 of the Securities Exchange Act of 1934. *See Exhibit 1*, Plaintiff's Original Petition, at p. 32, ¶¶ 90-91. Federal courts have exclusive jurisdiction over civil suits arising under the Securities Exchange Act of 1934. 15 U.S.C. § 78aa.

### **C. Attachment of State Court Pleadings**

5. In accordance with 28 U.S.C. §1446(b) and Local Rule 81, Defendants have attached to this Notice the following items:

- Exhibit 1 – Plaintiff's Original Petition;
- Exhibit 2 – Original Answer of Defendants Steakley, Clark, Wheelock and Tucci;
- Exhibit 3 – Original Answer for Defendants SioTex Corporation, Rhodes, Steinke and Beall;
- Exhibit 4 – Harris County Docket Sheet;

- Exhibit 5 – Federal Civil Cover Sheet;
- Exhibit 6 – List of All Counsel of Record;
- Exhibit 7 – Defendants' SioTex Corporation, Jamie Rhodes, George Steinke and Gary Beall's Notice of Consent to Removal; and
- Exhibit 8 – Notice of Removal to Federal Court.
- Exhibit 9 – Index of Matters Being Filed

6. Venue is proper in this district under 28 U.S.C. § 1441(a) because the United States District Court for the Southern District of Texas, Houston Division, is the district and division within which the state court action is pending.

7. Defendants will promptly file a Notice of Removal to Federal Court with the 129<sup>th</sup> Judicial District Court of Harris County, Texas on the date of this filing with the United States District Court for the Southern District of Texas, Houston Division. A copy of the notice to be provided to the state court is attached to this Notice as Exhibit 8.

#### **D. No Jury Demand**

8. Plaintiff did not demand a jury in the state court lawsuit.

#### **E. Conclusion**

9. Therefore, Defendants David Steakley, Andrew Clark, William Wheelock, and Robert Tucci respectfully request that further proceedings in the state court action be discontinued, that Cause No. 2017-22464 in the 129<sup>th</sup> Judicial District Court of Harris County, Texas be removed to the United States District Court for the Southern District of Texas, Houston Division, and that this Court assume full jurisdiction over this action as provided by law.

Respectfully submitted,

/s/ Reagan D. Pratt

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing to be served on counsel of record on this the 19<sup>th</sup> day of May, 2017 as indicated below:

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